

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**BECKLEY DIVISION**

DONALD LEGGETT, JR.,

Petitioner,

v.

CIVIL ACTION NO. 5:05-cv-00954

CHARLES T. FELTS, Warden,

Respondent.

**MEMORANDUM OPINION**

Pending before the Court is Petitioner's Application Under 28 U.S.C. § 2241 for Writ of Habeas Corpus by a Person in State or Federal Custody [Docket 1]. By Standing Order entered on July 21, 2004, and filed in this case on December 5, 2005, this action was referred to United States Magistrate Judge R. Clarke VanDervort for submission of proposed findings and a recommendation (PF&R). Magistrate Judge VanDervort filed his PF&R [Docket 6] on January 30, 2009, recommending that this Court **DISMISS** Petitioner's application and **REMOVE** this matter from the Court's docket.

The Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir.1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). In addition, this Court need not conduct a de

novo review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Here, objections to Magistrate Judge VanDervort’s PF&R were due by February 17, 2009, pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b). To date, no objections have been filed.

Accordingly the Court **ADOPTS** the recommendation contained in the PF&R [Docket 6], **DISMISSES** Petitioner’s Application Under 28 U.S.C. § 2241 for Writ of Habeas Corpus by a Person in State or Federal Custody [Docket 1], and **MOVES** this matter from the Court’s docket. A separate Judgment Order will enter this day implementing the rulings contained herein.

ENTER: February 20, 2009

  
THOMAS E. JOHNSTON  
UNITED STATES DISTRICT JUDGE